



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

Customer Assistance

IN THE MATTER OF MAX NATURAL)
FOOD ET AL., PETITIONER v. PUBLIC
SERVICE ELECTRIC AND GAS
COMPANY, RESPONDENT

ORDER ADOPTING
INITIAL DECISION

BPU Docket No. EC05040339U

OAL Docket No. PUC 7395-05

(SERVICE LIST ATTACHED)

BY THE BOARD:

On April 11, 2005, Max Natural Food, et al. (Petitioners) filed a petition with the Board of Public Utilities (Board) for a hearing in regard to a billing dispute with Public Service Electric and Gas Company (PSE&G) (Respondent).

On June 16, 2006, the Board transmitted this matter to the Office of Administrative Law (OAL) for determination and initial disposition as a contested case pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. The matter was assigned to Administrative Law Judge (ALJ) Thomas E. Clancy.

During the pendency of this matter at the OAL, the Superior Court directed that two cases originally filed in that venue, regarding claims for damages, be dismissed and re-filed with the Board: Max Natural Food Wholesale, Inc. v. Public Service Electric and Gas Company, Docket No. ESK-L-003054-04, and Liu Xu, a/k/a Xu Liu v. Public Service Electric and Gas Company, Docket No. ESK-L-797-06. During settlement negotiations to resolve the within matter, ALJ Clancy also allowed the parties to negotiate settlement of the cases originally filed in Superior Court.

The parties engaged in negotiations and entered into a Settlement Agreement and General Release, providing for a release of claims in the within matter as well as in the cases originally filed in Superior Court. Under the terms of the settlement, inter alia, Petitioners release all of their claims against PSE&G, and PSE&G will pay Petitioners the amount of \$25,000.00. The settlement was submitted to the ALJ for review. On March 16, 2006, ALJ Clancy filed an Initial Decision with the Board, memorializing the terms of the settlement and recommending that it be

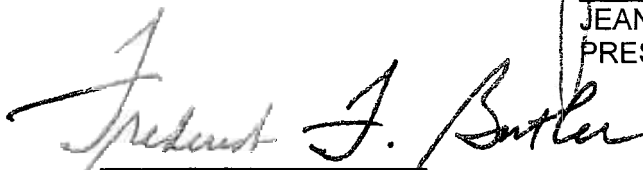
approved. The ALJ found the settlement to be voluntary, consistent with the law and fully dispositive of all issues in controversy. The ALJ therefore concluded that the settlement met the requirements of N.J.A.C. 1:1-19.1.

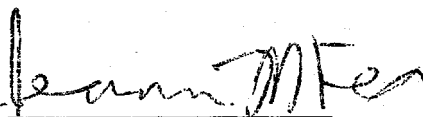
After review, the Board FINDS that the parties appear to have reached resolution of their differences, and the Board has been informed that PSE&G has made the payment provided for in the settlement agreement. The Board HEREBY ADOPTS the Initial Decision to the extent that the Petitioners withdraw their request for a hearing. The Board makes no finding as to any claims for damages raised by Petitioner and, in issuing this Order, is not ruling upon the reasonableness of the payment by PSE&G. The Board notes that it usually does not exercise jurisdiction as to damages. See Rosenblatt v. New Jersey Natural Gas Company, BPU Dkt. No. GC03070523U (July 20, 2005); Catino v. MCI Metro Access Transmission Services, LLC, dba MCI Telecommunications, BPU Dkt. No. TC03050386U (July 23, 2004); I/M/O Petition of David and Elizabeth Nikel v. Public Service Electric & Gas Co., BPU Dkt. No. EC02040250 (Nov. 19, 2002); Muise v. GPU, Inc., 332 N.J. Super. 140, 163 (App. Div. 2000); Boldt v. Correspondence Management, Inc., 320 N.J. Super. 74, 87 (App. Div. 1999); Slowinski v. Public Service Electric and Gas Co., BPU Dkt. No. EC96090688U, OAL Dkt. No. PUC 10082-96 (June 11, 1997); Slowinski v. Public Service Electric and Gas Co., BPU Dkt. No. EC91111716U, OAL Dkt. No. PUC 305-92 (May 21, 1993); Hess v. New Jersey Central Power & Light Co., Dkt. No. OC8611-1198 (Mar. 3, 1987); Aquilante v. New Jersey Nat. Gas Co., BPU Dkt. No. 845-256 (Nov. 7, 1984). As in prior cases, the Board will not exercise jurisdiction over damages in this matter.

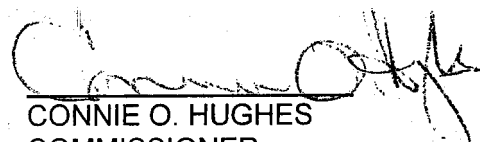
Therefore, to the extent discussed above, the Board HEREBY ADOPTS the Initial Decision and to the extent that it may be construed as a ruling upon damages and/or the payment by PSE&G, the Board HEREBY MODIFIES the Initial Decision.

DATED: 4/27/06


BOARD OF PUBLIC UTILITIES
BY:


FREDERICK F. BUTLER
COMMISSIONER

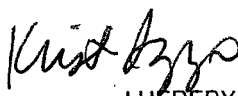

JEANNE M. FOX
PRESIDENT


CONNIE O. HUGHES
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY
I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities
-2-

BPU Docket No. EC05040339U
OAL Dkt. No. PUC 7395-05

Max Natural Food, et al. v. Public Service Electric and Gas Company

BPU Docket No. EC05040339U

OAL Dkt. No. PUC 7395-05

SERVICE LIST

Kevin K. Tung, Esq.
Kevin Kerveng Tung, P.C
1744 Highway 27
Edison, NJ 08817

Jason A. Lewis, Esq.
Public Service Electric and Gas Co.
80 Park Plaza – T5G
Newark, NJ 07102

Kent Papsun, Director
Division of Customer Assistance
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Jeff Slutzky, Esq.
Division of Law
124 Halsey St. - 5th Floor
Newark, NJ 07102



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

UNIS
BBSLOH
ZPA
SL TZY
J. LERIO Y
STARIK

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 07395-05

AGENCY DKT. NO. EC05040339U

MAX NATURAL FOOD ET AL.,

Petitioner,

v

**PUBLIC SERVICE ELECTRIC AND
GAS COMPANY,**

Respondent.

Kevin K. Tung, Esq., for petitioner (Kevin Kerveng Tung, P.C)

Thomas P. Thackston, Esq. for respondent

Record Closed March 13, 2006

Decided March 16, 2006

BEFORE THOMAS E. CLANCY, ALAJ

This matter was transmitted to the Office of Administrative Law (OAL) on June 23, 2006, for resolution as a contested case pursuant to N.J.S.A. 52:14B- to -15 and N.J.S.A. 52:14F1 to -13.

During the pendency of the case at the Office of Administrative Law, the parties settled their differences as provided in the attached Settlement Agreement and General Release.

Having reviewed the contents of the attached Settlement Agreement and General Release **FIND** (a) that they are consistent with the law (b) that they dispose of all issues in controversy, and (c) that they were voluntarily entered into by the parties

Accordingly, **CONCLUDE** that the attached Settlement Agreement and General Release meets the requirements of *N.J.A.C. 1-19.1(d)* and hereby **APPROVE** same In conjunction therewith, I **ORDER** that the parties comply with its contents and that these proceedings be (and are hereby) **TERMINATED**.

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration

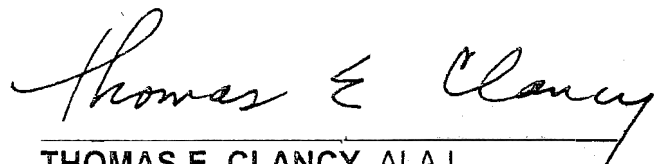
This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10

DATE

3/16/06


DATE

DATE
da



THOMAS E. CLANCY, ALAJ

Receipt Acknowledged


BOARD OF PUBLIC UTILITIES

Mailed to Parties

OFFICE OF ADMINISTRATIVE LAW

SETTLEMENT AGREEMENT
AND
GENERAL RELEASE

(OAL DKT. # 7395-05)

THIS GENERAL RELEASE MADE THIS 13TH DAY OF
AND Settlement Agreement

MARCH, 2006 BETWEEN

MAX NATURAL FOOD WHOLESALER, INC. AND XU LIU,
(HEREINAFTER REFERRED TO AS "RELEASEES"),

AND

PUBLIC SERVICE ELECTRIC AND GAS COMPANY (HEREINAFTER
REFERRED TO AS "RELEASEE").

1. RELEASEES GIVE UP AND RELEASE ANY AND ALL CLAIMS AND RIGHTS THEY MAY HAVE AGAINST RELEASEE. THIS RELEASES ALL CLAIMS, INCLUDING THOSE OF WHICH RELEASEES ARE NOT AWARE AND THOSE NOT MENTIONED IN THIS RELEASE. THIS RELEASE APPLIES TO CLAIMS RESULTING FROM ANYTHING WHICH HAS HAPPENED UP UNTIL NOW. *I SPECIFICALLY RELEASE THE FOLLOWING CLAIMS: ALL CLAIMS IN THE MATTER MAX NATURAL FOOD WHOLESALER, INC. v. PUBLIC SERVICE ELECTRIC AND GAS COMPANY, DOCKET NO. ESK-L-003054-04; LIU XU, a/k/a XU LIU v. PUBLIC SERVICE ELECTRIC AND GAS COMPANY, DOCKET NO. ESK-L-797-06; and MAX NATURAL FOOD VS. PSEG, OAL DOCKET NO. PUC-07395-05.

2. I SHALL SOON BE ~~HAVE BEEN~~ PAID A TOTAL OF TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS IN FULL PAYMENT FOR MAKING THIS RELEASE. RELEASEES AGREE THAT THEY WILL NOT SEEK ANYTHING FURTHER, INCLUDING ANY OTHER PAYMENTS FROM RELEASEE.

3. RELEASEES ARE JOINTLY AND SEVERALLY BOUND BY THE RELEASE, AS ARE ANY OTHERS WHO SUCCEED TO THE RIGHTS OF RELEASEES. THIS RELEASE IS NOT

FOR THE BENEFIT OF ~~DEBASS~~ AND FOR ALL WHO
SUCCEED THE RIGHTS AND RESPONSIBILITIES OF THE
~~DEBASS~~.

4. DEBASSORS UNDERSTAND AND AGREE TO THE TERMS OF
THIS GENERAL DEBASS. WITH RESPECT TO THE COMPANY
DEBASSOR, ITS PROPER COMPANY OFFICE IS AUTHORIZED
TO SIGN THE SAID AND HAS DONE SO. ON BEHALF OF
MAX FOODS MAX NATURAL FOOD WHOLESALERS, INC.

BY: Max Manager
owner
Thurman
WITNESS

XU LIU a/k/a LIU XU
Thurman
WITNESS

PLASS Thurman
WITNESS Attorney for
PSE & G

5. Petitioners (MAX Food) and Xu Liu hereby
with drew their request for an OAC
hearing in case bearing OAC Docket
PUC 7395-05.

PLA TPT



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW
33 Washington Street
Newark, New Jersey 07102
(973) 648-6008

NORTH

Date: MAR 20 2006

Re: Initial Decisions for Receipt

Receipt of the following decisions from the Office of Administrative Law (as well as a copy of this form) is acknowledged as of the date indicated below:

OAL Docket No. PUC

Case Name

7395-05

MAX NATURAL Food ETAL.

Board of Public Utilities

2 Gateway Center

Newark, New Jersey 07102

Date: 6/7

7
Board of Public Utilities